IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 828 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE N.G.NANDI

and

Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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STATE OF GUJARAT THRO' SPL. LAND ACQ. OFFICER

Versus

ASMALBHAI RAHEMANBHAI

Appearance:

MS MANISHA LAVKUAMR AGP for appellants

MR PRASHANT MANKAD for Respondent

CORAM : MR.JUSTICE N.G.NANDI

and

MR.JUSTICE J.R.VORA

Date of decision: 06/05/2002

ORAL JUDGEMENT (Per : MR.JUSTICE N.G.NANDI)

1. Heard. Admit. Notice to the respondent/ claimant. Mr. Prashant Mankad waives the service of notice and accepts the notice for the claimant - respondent.

2. On the request of Mr. Prashant Mankad for the respondent claimant and learned AGP Ms. Manisha Lavkumar for the appellant State, this Appeal is taken up today for final disposal.

2. In this Appeal under Section 54 of the Land Acquisition Act (hereinafter referred to as the "Act"), the Appellant State of Gujarat has been challenging the impugned award passed under Section 18 of the Act thereby the Reference Court enhanced the compensation, from Rs. 3.72 per sq. meter in respect of non-irrigated land and Rs. 5.58 per sq. meter for the irrigated land awarded by the learned Special Land Acquisition Officer, in all to Rs. 14.95 per sq.meter in respect of both the lands.

3. The lands in question are situated at village Handod Tal. Karjan, Dist. Vadodara. Notification under Section 4(1) of the Act came to be published on 3.8.1995, the respondent claimant filed his objections to the acquisition, thereafter the declaration under Section 6 of the Act came to be published on 22.1.1997, the Special Land Acquisition Officer declared the award under Section 11A of the Act on 30.8.1997 awarding the amounts as afore stated. Being aggrieved with the grant of compensation at the rate of Rs. 3.72 per sq. meter for non-irrigated lands and at the rate of Rs. 5.58 per sq. meter for the irrigated lands, the claimant requested for Reference under Section 18 of the Act, whereupon the Reference was made to the District Court at Vadodara by the Special Land Acquisition Officer. The Reference Court enhanced the compensation in all at the rate of Rs.14.95 in respect of irrigated as well as non-irrigated lands by the impugned award and judgment. The State of Gujarat being aggrieved with the enhancement of the compensation at the aforesaid rate, has filed this Appeal under Section 54 of the Land Acquisition Act.

4. As seen above, for the lands in question situated at village Handod, Taluka Karjan, District Vadodara, Notification under Section 4(1) of the Act came to be published on 3.8.1995, claimant raised his objections to the acquisition and thereafter Notification under Section 6 of the Act came to be published on 22.1.1997. The claimant demanded compensation at the rate of Rs. 40/per sq. meter in respect of irrigated as well as

non-irrigated lands. The amount of compensation came to be redetermined by the Reference Court, enhancing it from Rs. 3.72 per sq. meter and Rs. 5.58 per sq.meter in respect of non-irrigated as well as irrigated lands respectively and the Reference Court redetermined the compensation for both the types of lands at in all Rs. 14.95 per sq.meter. On behalf of the respondent claimant, judgment rendered in First Appeal No. 3175 to 3179 of 2001 by the Division Bench of this Court has been placed on record and it has been contended that the learned Single Judge of this Court awarded compensation at the rate of in all Rs.13.95 per sq. meter in respect of the lands situated at village Handod. The learned single Judge awarded compensation at the rate of Rs. 13.95 per sq. meter reducing the same from Rs. 14.95 per sq. meter awarded by the Reference Court in the reference under Section 18 of the Act.

5. Since the learned Single Judge of this Court in the aforesaid Appeals has awarded in all Rs.13.95 per sq. meter reducing it from Rs. 14.95 awarded by the Reference Court, in respect of irrigated and non-irrigated lands of the same village i.e. village Handod, we see no reason not to award the compensation at the rate of Rs. 13.95 per sq. meter in respect of irrigated as well as non-irrigated lands situated at that very village.

6. In view of the above, the appeal is partly allowed to the above extent. That the compensation awarded at the rate of Rs. 14.95 per sq. meter by the Reference Court is reduced to in all Rs. 13.95 per sq. meter and the respondent claimant would be entitled to compensation at the rate of in all Rs.13.95 per sq. meter instead of Rs. 14.95 per sq. meter, with 9% interest from the date of application till the realisation of amount with all statutory benefits as awarded by the Reference Court together with interest at statutory rate on solatium in view of the settled legal position in the case of SUNDER vs. UNION OF INDIA, reported in (2001) 7 SCC 211.

7. The appellant State of Gujarat shall deposit the awarded amount together with interest and all other statutory benefits within four months from today. No order as to costs.

(N.G. Nandi, J.) (J.R. Vora, J.)